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HIGHWAYS

1972

REPORT NO. 41
To the 43rd Legislative Assembly

MONTANA LEGISLATIVE COUNCIL
State Capitol
Helena, Montana

Montana State Library



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HIGHWAYS

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RECOMMENDATIONS

The Montana Legislative Council recommends:

1. *That the State Highway Department assume the maintenance responsibility for federal aid secondary highways.*
2. *No recommendation concerning motor vehicle inspection laws.*
3. *That emergency conditions be specifically defined and restrictive legislation be passed to prevent the abuse of the authorization which permits the purchase of equipment without a competitive bidding process.*
4. *That a minimum annual proportional registration fee of \$3.50 for each power unit and each trailer be established.*

EXTRAORDINARY SESSION SENATE RESOLUTION NO. 3

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO STUDY THE ADMINISTRATION AND OPERATION OF THE MONTANA HIGHWAY DEPARTMENT.

WHEREAS, the Montana highway department is a large and complex organization; and

WHEREAS, the operation of the highway department involves expenditures of millions of dollars; and

WHEREAS, a new complex of buildings is scheduled to be built for the highway department.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the legislative council make a detailed study of the administration and operation of the Montana highway department.

BE IT FURTHER RESOLVED, that the legislative council consult with personnel of the bureau of public roads and the highway departments of other states.

BE IT FURTHER RESOLVED, that the legislative council maintain a complete record of all evidence gathered, including a written transcript of all testimony taken at hearings.

BE IT FURTHER RESOLVED, that the legislative council consult with the Montana highway commission in conducting this study.

INTRODUCTION

The Legislative Council considered the following topics concerning highways: secondary highway maintenance, highway safety measures, provisions for the emergency purchase of highway equipment, and proportional registration fees for interstate motor carriers.

SECONDARY HIGHWAY MAINTENANCE

At the present time, secondary highway maintenance is the responsibility of county governments in Montana. Maintenance funding is derived primarily from the county road levies. Although the 41st Legislature approved the dispersal of an additional \$3 million of gas tax revenue to cities and counties for highway construction and maintenance, many counties do not have funds sufficient to permit an adequate maintenance program for secondary highways.

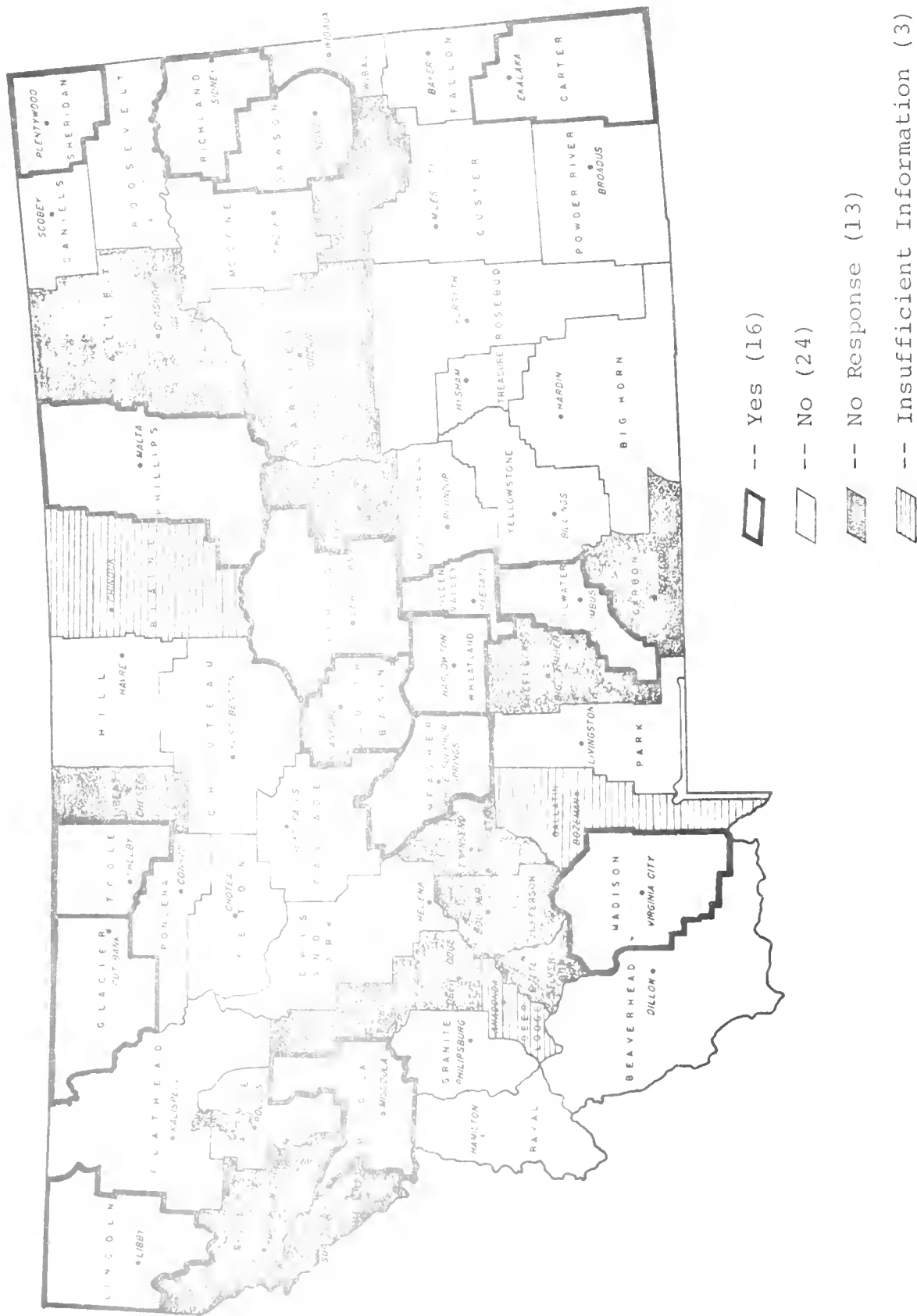
At a meeting on February 16, 1972, the county commissioners were asked if they would favor a voluntary system of secondary highway maintenance conducted by the Montana Highway Department. Of the counties represented at the hearing, eighteen were in favor of such a system and fourteen were opposed. Commissioners from twenty-four counties were either not represented, expressed no opinion, or were divided in their opinions as to whether their county would favor a state maintenance system.

A subsequent questionnaire was mailed to all county commissioners in August, 1972. County responses to that questionnaire are detailed on the following maps.

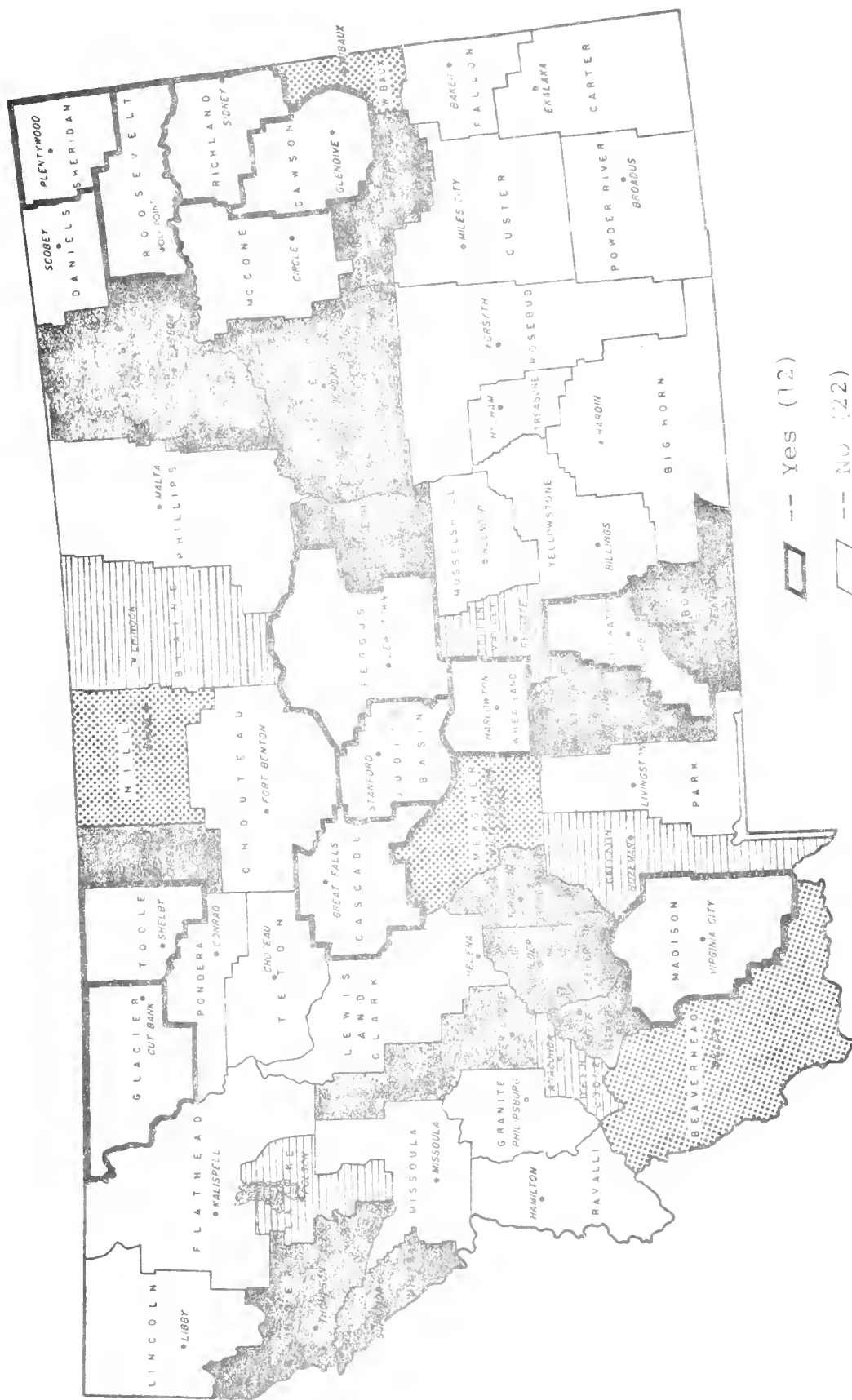
Because many counties have neither the necessary funds nor the equipment and personnel necessary to adequately maintain paved secondary highways, the Legislative Council makes the following proposal:

1. Counties may voluntarily abdicate responsibility for the maintenance of federal aid secondary highways to the Montana Highway Department.
2. The maintenance system will be funded by an added two cent tax on diesel fuel used for on-highway purposes plus the funds made available to counties participating in the state maintenance system by the 41st Legislature as defined in Section 84-1840, R.C.M. 1947. Effective date of this tax is same as in #5 below.
3. Funds provided by the increased diesel fuel tax will be distributed among counties in the manner

Question 1: Do you as county commissioners favor the establishment of the described state maintenance system?



Question 2: Would your county participate in the system?



-- Yes (12)

-- No (22)

-- No Response (13)

-- Insufficient Information (5)

-- No answer to this question (4)

provided by Section 84-1840(1) (a), R.C.M. 1947.

4. The funds provided by Section 84-1840, R.C.M. 1947, which are appropriated by that section to counties participating in the state maintenance system, will be apportioned among participating counties as provided in Section 84-1840, R.C.M. 1947.
5. The effective date will be July 1 following the date on which counties containing 51% of the total miles of federal aid secondary highways in the state have requested participation in the state maintenance system.
6. After the state maintenance system is in effect, a county must provide written notice one year prior to abdicating or reassuming responsibility for the maintenance of federal aid secondary highways within its borders.

The Legislative Council recommends that the State Highway Department assume maintenance responsibility for federal aid secondary highways.

HIGHWAY SAFETY

A considerable amount of material concerning the effect of motor vehicle inspection laws on the incidence of traffic accidents was reviewed prior to the Legislative Council's consideration of highway safety. In addition, representatives of the Montana Highway Patrol and the Bureau of Highway Traffic Safety presented testimony.

As a result of this information, the Legislative Council found that it was unable to make a recommendation concerning legislation which would require motor vehicle inspection laws. The experience of states which have various types of inspection laws did not convince the Council that accident rates were significantly reduced by these laws and questionable inspection requirements may be more detrimental than beneficial to the motoring public. The Council feels that a state operated inspection system would be prohibitively expensive while a system based upon service station inspections would permit unscrupulous operators to take advantage of the consumer by recommending unnecessary repair and replacement of automobile parts.

The Legislative Council therefore makes no recommendation concerning motor vehicle inspection laws.

EMERGENCY PURCHASES

Section 82-1919, R.C.M. 1947, provides state authority for emergency purchases under open contract without competitive bidding.

82-1919. Purchase of fresh fruits and vegetables--emergency purchases. Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as hereinbefore provided. The state purchasing agent may allow any state officer, board, commission or superintendent of state institution to purchase the fresh fruits and vegetables therefor, and make other and minor purchases for the same; an itemized account to be kept of all such purchases and furnished to the state purchasing department.

Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which such articles are usually bought and sold or such services engaged between individuals, but under the direction of the state purchasing agent.

The Legislative Council is of the opinion that the authority granted by Section 82-1919, R.C.M. 1947, is unnecessarily vague and should be restricted by the precise definition of emergency conditions. Without this definition the scope of the authority granted by this section is so broad that purchases can be justified on an emergency basis when only minor inconvenience would result from the normal purchasing process requiring competitive bidding.

The Legislative Council recommends that emergency conditions be specifically defined and restrictive legislation be passed to prevent the abuse of the authorization which permits the purchase of equipment without a competitive bidding process.

CONFLICT OF INTEREST

The Legislative Council is of the opinion that, in light of the Attorney General's opinion concerning state officials who provide equipment or services to the state, the conflict of interest statutes should be revised. However, since the 1972 Montana Constitution requires that the legislature enact a code of ethics, the Council deferred action on this subject until legislation implementing the Constitution has been drafted.

MINIMUM PROPORTIONAL REGISTRATION FEE

At the present time Montana allows truck fleets to register and pay fees and taxes on the basis of actual mileage traveled within the state. Since large interstate fleets travel only a small fraction of their total mileage in Montana, the entire fee levied on each vehicle in these fleets may amount to only a few cents. The Legislative Council is concerned that this miniscule amount may not be sufficient to cover the administration costs of processing the registration in some cases.

A minimum proportional registration fee of \$3.50 annually for each proportionally registered power unit and each proportionally registered trailer would ensure that the administrative costs of this form of registration are covered by the revenue received.

Several other states now employ an annual minimum fee of this type. For instance, Arizona charges \$3 each for power units and trailers, Iowa charges \$10 per power unit and \$2 per trailer, North Dakota charges \$3 each for power units and trailers, and Washington charges \$7.50 for diesel units, \$6.50 for gas units and \$3.50 for trailers.

The Legislative Council recommends that a minimum annual proportional registration fee of \$3.50 for each power unit and each trailer be established.

INTERSTATE HIGHWAY CONSTRUCTION

The following tabulation indicates the status of construction on the interstate highway system as of June 30, 1972.

	<u>Miles</u>
Interstate Completed FY 1972	118.2
Total Interstate Constructed:	
4-lane	550.1
2-lane	263.3
Total	<u>813.4</u>
Total Interstate to be Constructed:	
New 4-lane	375.3
Add 2-lane	263.3
Total Interstate Under Construction:	
New 4-lane	149.3
Add 2-lane	31.5
Total	<u>180.8</u>
Estimated Interstate that will be completed in FY 1973	128.8

The Senate version of the 1972 Federal Highway Act would extend the completion date for the Interstate System to 1980. This Act has not been passed by the Congress as of this date.

PORTS OF ENTRY

The Legislative Council considered several measures which are directly affected by Montana's use of weigh stations rather than ports of entry. In Montana, laws which pertain to motor transports are enforced through a system of weigh stations located, for the most part, away from the state's borders. (See Map 3)

One proposal would replace Montana's present system of motor transport fees with a ton-mile tax. Since Montana does not have a port of entry system no data could be obtained relative to the number of miles traveled by different size transports for either foreign or domestic carriers. It is therefore impossible to estimate the effects of a ton-mile tax in terms of either the change in revenue brought about by the replacement of the present fee system by this tax, the change in transport charges paid by users of motor transport services or the change in motor transport availability. Because these effects could not be determined, the Council did not recommend the establishment of a ton-mile tax.

Another proposal would have required that motor transports pay Montana's motor fuel tax on the fuel contained in their tanks when they entered Montana. Once again, the absence of a port of entry system precludes any method of enforcing and collecting a tax of this nature.

In an effort to obtain the information necessary to evaluate the effect of a ton-mile tax a third proposal would have required the Highway Department to operate weigh stations on a twenty-four hour basis. As already noted this proposal would be ineffective because Montana's weigh stations are not located on or near the state's borders.

For these reasons the Legislative Council made no recommendations concerning these proposals.



APPENDIX A

_____ BILL NO. _____

INTRODUCED BY _____

82-1919

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 82-1919, R.C.M. 1947, TO PROVIDE A DEFINITION FOR A 'PUBLIC EXIGENCY'."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 82-1919, R.C.M. 1947, is amended to read as follows:

"82-1919. Purchase of fresh fruits and vegetables--emergency purchases. Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as hereinbefore provided. The state purchasing agent may allow any state officer, board, commission or superintendent of state institution to purchase the fresh fruits and vegetables therefor, and make other and minor purchases for the same; an itemized account to be kept of all such purchases and furnished to the state purchasing department.

Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which such articles are usually bought and sold or such services engaged between individuals, but under the direction of the state purchasing agent.

For the purposes of this section, a "public exigency" is a time in which an unforeseen happening or event or combination of unexpected circumstances necessitates immediate action or remedy to protect the public interest."

APPENDIX A

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INTRODUCED BY _____

82-1919

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Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which such articles are usually bought and sold or such services engaged between individuals, but under the direction of the state purchasing agent.

For the purposes of this section, a "public exigency" is a time in which an unforeseen happening or event or combination of unexpected circumstances necessitates immediate action or remedy to protect the public interest."

APPENDIX B

BILL NO. _____

INTRODUCED BY _____

84-1832.1

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-1832.1, R.C.M. 1947, TO PROVIDE FOR STATE ASSUMPTION OF PAVED FEDERAL AND SECONDARY HIGHWAY MAINTENANCE, AND TO PROVIDE FUNDING FOR SUCH STATE MAINTENANCE."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 84-1832.1, R.C.M. 1947, is amended to read as follows:

"84-1832.1. Tax to be collected on diesel fuel and liquid petroleum gas, when. The state board of equalization shall, under the provisions of rules and regulations issued by said board, collect or cause to be collected from the owners or operators of motor vehicles a tax in an amount equal to ~~nine cents (\$.09)~~ eleven cents (\$.11) for each gallon of diesel fuel or other volatile liquid, of less than forty-six degrees (46°) A.P.I. (American Petroleum Institute) gravity test, and seven cents (\$.07) for each gallon of liquid petroleum gas when actually sold or used to produce motor power to propel motor vehicles upon the public highways or streets within the state of Montana, or used in motor vehicles, motorized equipment and the internal combustion of any and all engines including stationary engines used in connection with any and all work performed under any and all contracts pertaining to the construction, reconstruction or improvement of any highway or street and their appurtenances awarded by any and all public agencies, including federal, state, county, municipalities, or other political subdivision."

Section 2. For the purposes of this act, terms are defined as follows:

(1) "Eligible highways" -- eligible highways are all paved federal aid secondary highways as defined by section 32-2203(20).

(2) "Maintenance" -- maintenance is defined in section 32-2203 and shall include vegetation control and snow removal.

Section 3. Any board of commissioners of a county may, in its discretion shown by a majority vote of the commissioners,

transfer the responsibility for maintenance of eligible highways to the state department of highways. The state department of highways shall not assume maintenance responsibility in any county in which the board of commissioners has not transferred responsibility in the manner provided above.

Section 4. If the board of commissioners in a county transfers maintenance responsibility to the state department of highways, all money due that county under section 84-1840 shall be retained by the state department of highways for the maintenance of eligible highways in that county.

Section 5. Revenue equal to two-elevenths ($2/11$) of the amount derived from the tax on diesel fuel provided for by section 84-1832.1 shall be distributed to each county as provided in section 84-1840(1)(a) except that no county which levies less than ten (10) mills for its county road fund shall receive the revenue referred to above. If the board of commissioners of any county transfers maintenance responsibility to the state department of highways, the revenue provided to that county by this section shall be retained by the state department of highways for the maintenance of eligible highways in that county.

Section 6. After the effective date of this act, the board of commissioners of any county must provide the state highway commission with written notice one (1) year prior to transferring maintenance responsibility to the state department of highways. Likewise, one (1) year prior to reassuming maintenance responsibility, the board of commissioners of any county must provide the state highway commission with written notice of its intent.

Section 7. No provision of this act is effective until July 1 following the date on which the highway commission has received written notice from the boards of commissioners of counties containing fifty-one percent (51%) of the total eligible miles of their intention to transfer maintenance responsibility to the state department of highways. Likewise, no provision of this act is effective after July 1 following the date the boards of commissioners of counties containing more than forty-nine percent (49%) of the eligible miles have retained or reassumed maintenance responsibility.

APPENDIX C

_____ BILL NO. _____

INTRODUCED BY _____

53-712

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 53-712, R.C.M. 1947, TO PROVIDE FOR A MINIMUM PROPORTIONAL REGISTRATION FEE FOR INTERSTATE VEHICLES."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 53-712, R.C.M. 1947, is amended to read as follows:

"53-712. Proportional registration of fleet vehicles, application, fee-formula and payment. (1) Any owner engaged in operating one or more fleets may, in lieu of registration of vehicles under other sections of Title 53, register and license each fleet for operation in this state by filing an application with the Montana highway commission which shall contain the following information, and such other information pertinent to vehicle registration as the Montana highway commission may require:

(a) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the vehicles in such fleet during said year.

(b) In-state miles. This shall be the total number of miles operated in this state during the preceding year by the vehicles in such fleet during said year.

(c) A description and identification of each vehicle of such fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested.

(2) The application for each fleet shall be accompanied by a fee payment computed as follows:

(a) Divide in-state miles by total fleet miles.

(b) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is requested, based on the regular annual registration fees prescribed by section 53-122, R.C.M. 1947, as amended, and section 53-615,

R.C.M. 1947, as amended and such property taxes if any be due thereon.

(c) Multiply the sum obtained under subsection (2)(b) hereof by the fraction obtained under subsection (2)(a) hereof.

(3) The minimum fee shall be three dollars and fifty cents (\$3.50) for each power unit and three dollars and fifty cents (\$3.50) for each trailer proportionally registered in Montana."

